IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No. 128 of 1995

For Approval and Signature:

HONOURABLE MR.JUSTICE D.A.MEHTA Sd/-

HONOURABLE MS.JUSTICE H.N.DEVANI Sd/-

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

COMMISSIONER OF INCOME TAX - Applicant(s)
Versus
ARVIND JEWELLERS, - Respondent(s)

==========

Appearance :
MR MANISH R BHATT for Applicant(s) : 1,
MR RK PATEL for Respondent(s) : 1,

==========

CORAM : HONOURABLE MR.JUSTICE D.A.MEHTA
and
HONOURABLE MS.JUSTICE H.N.DEVANI

Date : 10/02/2006

ORAL JUDGMENT

(Per : HONOURABLE MS.JUSTICE H.N.DEVANI)

1 The following question has been referred by the Income Tax Appellate Tribunal, Ahmedabad Bench 'C' under Section 256(2) of the Income Tax Act,1961, at the instance of Commissioner of Income Tax.

> “Whether, the Appellate Tribunal is right in law and on facts in directing the ITO to grant registration to the assessee firm?”

2 The Assessment Year is 1983-84. The only issue involved is whether the assessee was entitled to renewal of registration. It is common ground between the parties that the facts obtaining in this year are identical to those obtaining in Assessment Year 1981-82 in assessee's own case, and hence, it is not necessary to set out the facts and contentions in detail

3 As can be seen from the impugned order of Tribunal, the Tribunal has followed its own order for Assessment Year 1981-82 without assigning any

independent reasons. The aforesaid order of the Tribunal for Assessment Year 1981-82 had been carried before this Court by way of Income Tax Reference No.173 of 1989, which has been answered in favour of the assessee by order dated 6/7/2005. In these circumstances, for the reasons stated in judgment rendered by this Court on 6/7/2005 in Income Tax Reference No. 173 of 1989, the question is answered in the affirmative i.e. in favour of the assessee and against the revenue.

4 Reference stands disposed of accordingly with no order as to costs.

Sd/- Sd/-
(D.A.MEHTA,J) (H.N.DEVANI,J)

m.m.bhatt